

# HOUSE BILL REPORT

## HB 1617

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### As Reported by House Committee On: Judiciary

**Title:** An act relating to the courts' consultation of the judicial information system before granting orders.

**Brief Description:** Concerning the use of the judicial information system by courts before granting certain orders.

**Sponsors:** Representatives Rodne, Goodman and Jinkins.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/3/15, 2/12/15 [DPS].

#### **Brief Summary of Substitute Bill**

- Provides that courts, when entering certain orders, may consult the Judicial Information System and related databases to review criminal history and determine whether other proceedings involving the parties are pending.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

**Minority Report:** Do not pass. Signed by 1 member: Representative Shea, Assistant Ranking Minority Member.

**Staff:** Omeara Harrington (786-7136).

#### **Background:**

The Judicial Information System (JIS) is a statewide information system for courts in Washington. The JIS contains information regarding family law actions and other civil cases,

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criminal history, pending criminal charges, and outstanding warrants. The JIS also includes information relating to protection, no-contact, and restraining orders, including those issued in proceedings involving domestic violence, sexual assault, harassment, family law, and vulnerable adults. Information related to these orders includes the names of the parties, the cause number, the criminal histories of the parties, and any other relevant information necessary to assist courts. The statutorily stated purpose for having this information available in the JIS is to prevent the issuance of competing protection orders and to provide courts with needed information for issuance of protection orders.

Rules regarding ex parte communications prohibit judges from receiving or seeking factual information from outside of the record of a pending case except in limited situations, including when authorized by law to do so. Courts are statutorily required or permitted to consult the JIS in certain circumstances, for example, when entering orders for permanent parenting plans or child custody, and when entering certain protection orders.

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### **Summary of Substitute Bill:**

Prior to entering certain types of orders, the court may consult the JIS or related databases, if available, to review criminal history or to determine whether other proceedings involving the parties are pending. Specifically, the court may consult the JIS or another database when granting any of the following orders:

- any temporary or final order establishing a parenting plan, making a residential determination concerning a child, or restricting a party's contact with a child;
- any order regarding a vulnerable child or adult, or a person who is an alleged incapacitated person in a guardianship proceeding, regardless of the type of order;
- an order granting letters of guardianship or appointing an administrator of an estate;
- any order granting relief under the title of the RCW regarding mental illness, which encompasses civil commitment, sexually violent predators, and related matters; and
- any order granting relief in a juvenile proceeding; and
- an order of protection or criminal no-contact order for sexual assault, stalking, antiharassment, or domestic violence, or a foreign protection order.

In the event that the court does consult the JIS or a related database, the court is required to disclose to the parties the fact that the database was consulted. In addition, the court must disclose any matters that the court relied upon in rendering a decision, and file a copy of the document relied upon within the court file. The document must be filed as a confidential document with any confidential contact or location information redacted.

### **Substitute Bill Compared to Original Bill:**

The court may consult the JIS or a related database when entering an order of protection or criminal no-contact order for sexual assault, stalking, antiharassment, or domestic violence, and when entering a foreign protection order. Confidential contact information must be redacted from any copy of a relied-upon document that the court files as a confidential document in the case file.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This comes as a result of an ethics opinion. A technical fix is needed to allow judges discretion to access the JIS so that they can make the best possible ruling. Judges need to know all of the material information in granting orders, particularly sensitive orders like those involving child custody and vulnerable children and adults. In many places in statute the court is required to look at the JIS and other databases, but there are gaps. For example, statute requires a judge to look at databases in entering a permanent parenting plan, but not a temporary parenting plan. One way this may come up is in deciding a contested child custody case. The judge may not be able to know that the mother's boyfriend is a registered sex offender. The bill requires judicial officers to advise the parties that the information has been reviewed, giving the parties an opportunity to respond.

(In support with amendment(s)) The authority to consult the JIS should extend to the entry of domestic violence protection orders and sexual assault protection orders, to match the authority that currently exists with respect to stalking protection orders. Domestic violence history is often not identified even if it is extensive. Fatality reviews have revealed multiple cases of child custody orders or protection orders issued with no meaningful limitations on residential time, leading to opportunities for harassment and deaths of petitioners and their children.

(Opposed) None.

**Persons Testifying:** (In support) Representative Rodne, prime sponsor; and Elizabeth Martin, Superior Court Judges Association.

(In support with amendment(s)) Grace Huang, Washington State Coalition Against Domestic Violence.

**Persons Signed In To Testify But Not Testifying:** None.